

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

PROPOSED NEW REGULATION XIV - TITLE V OPERATING PERMITS

WORKSHOP REPORT

A workshop notice was mailed to each company holding a District permit. Notices were also mailed to the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and other interested parties.

The workshop was held on October 12, 1993, and was attended by 44 people. Written comments were also received. The following are all comments received and District responses. Comments which are supportive of the proposal have not been included.

1. WORKSHOP COMMENT

Would the addition of control equipment to emissions units at a stationary source such that emissions were reduced below major source thresholds be an acceptable method of getting a source out of the Title V Operating Permit program?

DISTRICT RESPONSE

Yes. However, permit conditions will have to be imposed to ensure that thresholds are not exceeded. Such conditions must be reasonably enforceable. If actual emissions are 75 % or more of the Title V thresholds, the permit conditions will also need to be federally enforceable. This 75% trigger criteria must still be approved by EPA as part of proposed Regulation XIV.

2. WORKSHOP COMMENT

What is the District's position regarding a single permit for a facility as opposed to separate permits for each emissions unit?

DISTRICT RESPONSE

The District believes that for most Title V facilities, a single permit will be too complex and cumbersome to be used by a source to assist in compliance efforts. Such a single permit would list a description of all equipment, all applicable rule requirements, and all permit conditions. For most large sources subject to the Title V program, a single permit would be very long and any one single piece of equipment and its associated requirements would not stand out. The District believes a single permit for each piece of equipment will be more effective in specifying the specific requirements that piece of equipment must meet. Regulation XIV contains language to allow the District to group related equipment on a single permit if such grouping meets specified requirements. The individual equipment permits will be incorporated into the Title V permit documentation for the facility.

3. WORKSHOP COMMENT

What is the expected time period for EPA to review a Title V permit?

DISTRICT RESPONSE

The District expects EPA's review to be completed within 45 days. This is the time that is prescribed in 40 CFR Part 70 and proposed Regulation XIV.

4. WORKSHOP COMMENT

Will there need to be a separate Title V permit and APCD permit for an individual piece of equipment?

DISTRICT RESPONSE

The District will try to combine the requirements of both programs such that only one permit for individual emission units or emission unit groups will be needed. However, each facility with multiple equipment permits will likely have, in addition, a single Title V permit document that contains facility-wide requirements, alternative operating scenarios and a listing of the individual equipment permits.

5. WORKSHOP COMMENT

Will Regulation XIV contain requirements that there be a certification of facility compliance and for a compliance plan?

DISTRICT RESPONSE

Yes. Such certification of facility compliance and compliance plans are required to be submitted when the Title V application is submitted. Annual certification of facility compliance is also required. In addition however, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

6. WORKSHOP COMMENT

When are Title V applications required to be submitted to the District?

DISTRICT RESPONSE

All applications from facilities subject to the Title V program are required to be submitted no later than one year from the date of EPA approval of Regulation XIV and the District's Title V permitting program.

7. WORKSHOP COMMENT

Is the compliance plan that must be submitted open to public review and comment?

DISTRICT RESPONSE

Yes. All information provided in an application is open to public review unless specifically identified as trade secret or proprietary.

8. WORKSHOP COMMENT

If a source is under a variance, does the variance become part of the Title V permit?

DISTRICT RESPONSE

Yes. The terms and conditions of the variance will become part of the conditions of the Title V permit and, as appropriate, the applicable Rule 10 permits.

9. WORKSHOP COMMENT

After the Title V program is in place, will EPA increase enforcement locally to implement the program or will they delegate this authority to the District?

DISTRICT RESPONSE

Currently, the District is uncertain how EPA will elect to enforce the requirements of the Title V program.

10. WORKSHOP COMMENT

Will EPA review and comment on local variances?

DISTRICT RESPONSE

EPA will not review and comment on variances for minor sources. However, EPA could elect to review and comment on variances for major sources. Variance terms that become part of a Title V permit are subject to EPA review and approval, similar to any other terms and conditions of a Title V permit.

11. WORKSHOP COMMENT

Will equipment and CEM "breakdowns" (Rule 98) be subject to EPA enforcement?

DISTRICT RESPONSE

EPA indicates that 40 CFR Part 70 acknowledges emergency conditions at 70.6(g). This applies to exceedances of technology based limits during an emergency. It provides that such incidents are an affirmative defense against EPA legal action. EPA is of the opinion that this section also applies to breakdowns involving CEM's.

12. WORKSHOP COMMENT

The District should reference Rule 98 in Regulation XIV and allow EPA to review and comment on this element of the regulation.

DISTRICT RESPONSE

This is not necessary because Rule 98 is applicable to all provisions of the District's Rules and Regulations including Regulation XIV. The District will be submitting Rule 98 as part of the Title V program description in order for EPA to comment on its acceptability as described in the response to the preceding comment.

13. WORKSHOP COMMENT

Who makes the final decision on whether a modification is "significant" or "minor", EPA or APCD?

DISTRICT RESPONSE

The District makes the initial decision in accordance with the provisions of proposed Regulation XIV. However, this decision is subject to EPA review and EPA can object to the District's decision.

14. WORKSHOP COMMENT

If an add-on control device is used for the purpose of establishing emissions offsets, is it subject to Title V review or is it a minor modification?

DISTRICT RESPONSE

This type of change will be considered an administrative amendment unless it is also a part of a minor modification, a significant modification or a Section 502 (b)(10) change.

15. WORKSHOP COMMENT

Rule 1401(c)(40) [Significant Modification] states, "Any relaxation of monitoring, reporting or record keeping requirements at a source required to have a permit to operate (e.g., a change from daily to monthly record keeping) shall be considered a significant modification." Is this a specific requirement of EPA?

DISTRICT RESPONSE

Yes.

16. WORKSHOP COMMENT

What does the District intend to do with the "Stationary Source" definition?

DISTRICT RESPONSE

For the purposes of Regulation XIV only, the District will amend its proposed definition of stationary source to the following:

"Stationary Source" means an emission unit, or aggregation of emission units which are located on the same or contiguous properties and which are under common ownership or entitlement to use. ~~Related emission units on the same or contiguous property shall also be considered to be part of the stationary source regardless of the ownership or entitlement to use of the emission unit or property.~~ Stationary sources also include those emission units or aggregation of emission units located in California Coastal Waters.

17. WORKSHOP COMMENT

Rule 1401(c)(44) [Toxic Air Contaminant] states that Toxic Air Contaminant or Toxic Air Pollutant has the same meaning as "Federal Hazardous Air Pollutant". The term that should be used is "Federal Hazardous Air Pollutants". Using other terminology may include other contaminants in the Federal Title V program that EPA does not require.

DISTRICT RESPONSE

The District agrees. The regulation has been reworded to only refer to Federal Hazardous Air Pollutants.

18. WORKSHOP COMMENT

Once a source is in the Federal Title V program, can it reduce its emissions below the Title V thresholds and drop out of the program? Is there a formal opportunity for a source to get out of the Title V program if its emissions have dropped below the Title V threshold levels and five years have elapsed from when the source entered the program and the source is now subject to re-review.

DISTRICT RESPONSE

The EPA has stated that once a source is in the Title V program it must stay in the program. The District does not agree and will continue to pursue this with EPA. Proposed Regulation XIV would allow a source to reduce emissions below the Title V thresholds and agree to federally enforceable permit conditions. The proposed Regulation allows a source to drop out of Title V if its emissions fall below 75% of the threshold or if above 75% but below the threshold and the source agrees to federally enforceable permit conditions. Again, EPA must approve this provision.

19. WORKSHOP COMMENT

How does the fact that it takes EPA so long to approve new rules and rule changes into the SIP affect the Title V program and federal enforceability? What is the timing associated with keeping Title V permits up to date (e.g., How often are they updated)? How can the District or local industry get EPA to take action on local rule adoptions in a timely manner?

DISTRICT RESPONSE

The District will enforce local rules as they are adopted. EPA will not enforce them until they approve them into the SIP. Under the Clean Air Act, EPA is required to act on SIP revisions within one year from submittal. If EPA fails to act, citizen suits are an option to force EPA to act. EPA has stated they will provide state and local agencies with a complete listing of SIP approved rules by July, 1994. If applicable local rules are adopted or revised, however, the District permits will be updated as soon as possible. The federally enforceable parts of the Title V permits will not be updated until after EPA approves the new or revised rule as a SIP revision. Also, Part 70 provides that if a source becomes subject to a new rule when less than 3 years remain for renewal, the source must comply with the new rule without delay but the Title V permit need not be re-opened until the 5-year renewal takes place.

20. WORKSHOP COMMENT

If the District allows more flexible requirements for record keeping, how will they affect Title V permits? Will such changes be considered significant or minor modifications?

DISTRICT RESPONSE

If a rule District changes record keeping requirements and this results in a relaxation of a Title V permit record keeping requirement, such a change is considered a significant modification by EPA.

21. WORKSHOP COMMENT

Is the District working with other California air districts regarding the Title V program and associated issues?

DISTRICT RESPONSE

Yes. The District has participated in a statewide Title V Task Force organized by the California Air Pollution Control Officers Association (CAPCOA). This Task Force has included ARB and EPA representatives.

22. WORKSHOP COMMENT

Have all of the major sources that would be subject to the Title V program been identified?

DISTRICT RESPONSE

The District has a preliminary list of such sources based on the actual emissions of the sources. Since the Title V program is applied based on a source's potential to emit rather than actual emissions, this list will have to be revised, after EPA final approval of Regulation XIV.

23. WORKSHOP COMMENT

Will emissions from equipment that is currently grandfathered (e.g., NSR) be counted in determining the applicability of the Title V program?

DISTRICT RESPONSE

Yes.

24. WORKSHOP COMMENT

Will emissions from mobile sources be included in Title V applicability calculations? Mobile sources are included in the District's exemptions list.

DISTRICT RESPONSE

The District's intent is not to include emissions from mobile sources. This will be clarified in the rule. In addition, a definition for non-vehicular sources will be added to the rule. EPA representatives have indicated that EPA does not require inclusion of mobile source emissions.

25. WORKSHOP COMMENT

Will there now be record keeping requirements for equipment that is currently exempt from such record keeping because it is not subject to NSR requirements?

DISTRICT RESPONSE

Records similar to those already specified in District rules will be required for such equipment to show that the equipment is in compliance with applicable requirements. There is still some uncertainty regarding what additional record keeping may be required because EPA has not yet issued all of the applicable guidance on record keeping. However, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

26. WORKSHOP COMMENT

How will the District select which sources are required to enter into the Title V program in the first year?

DISTRICT RESPONSE

EPA requires that sources reflecting one third of the emissions of all sources subject to the Title V program be included in the program in the first year. In meeting this requirement, the District intends to select the simplest sources (i.e., those that raise the least complex permitting issues) that meet this emissions criteria to enter the program during the first year.

27. WORKSHOP COMMENT

For companies that have more than one source in the air basin, will the District consider staggering the requirements for these sources such that both are not brought into the Title V program during the same year?

DISTRICT RESPONSE

The District is generally agreeable to this request, provided the statutory requirements of the program can be met.

28. WORKSHOP COMMENT

When does the District expect to have draft permit application forms available for review?

DISTRICT RESPONSE

The proposed permit application forms will be developed and submitted to EPA as part of the Title V program submittal. They should be available by the end of this calendar year.

29. WORKSHOP COMMENT

Rule 1414(f)(3)(viii)(C) requires that a compliance plan be submitted for applicable requirements that will become effective during the permit term (5 years). How is a source expected to know what rules will be adopted by the District over the next five years?

DISTRICT RESPONSE

This is intended to include existing rules that have future effective dates and other rules that a source knows or should know will be adopted such as EPA scheduled MACT rules.

30. WORKSHOP COMMENT

If a company is required to install control equipment in a future year as a result of a rule requirement and the resulting emission reductions would drop the company below Title V threshold levels, can the company get relief from the Title V program until the controls are in place?

DISTRICT RESPONSE

There are no provisions for such relief. However, if the installation of controls is moved up such that actual emissions fall below the Title V threshold before an application for the Title V program is submitted, the facility may qualify as exempt from the program if it accepts federally enforceable permit conditions. This assumes that EPA accepts this approach in Regulation XIV.

31. WORKSHOP COMMENT

Why doesn't EPA support the District's definition of "Potential to Emit"?

DISTRICT RESPONSE

EPA's position has been that many actual small emission sources have the potential to emit at or above major source thresholds (e.g., 25 tons per year of VOC or NO_x) and need to have enforceable permit conditions limiting them to less than these thresholds in order to avoid the Title V program. Such limiting conditions must be subject to EPA review and comment as well as review and comment by the public in order to be federally enforceable. There will be a substantial administrative cost associated with this process with no real benefits to air quality. The District does not believe the Title V program was intended to apply to small sources and has written Regulation XIV to specify that if a source's actual emissions are not above 75% of the major

source threshold, they will not be required to meet the Title V program requirements. The District is still negotiating this approach with EPA. If EPA determines this approach is unacceptable, the District is also considering the use of a "Commercially Reasonable Annual Capacity Factor" to define a source's maximum Potential to Emit.

32. WORKSHOP COMMENT

What is the baseline year for determining whether a source is in or out of the Title V program?

DISTRICT RESPONSE

In conjunction with developing RACT rules for major sources, EPA has recommended that the District evaluate a source's emissions back to 1990 to determine whether the emissions ever exceeded the Title V (major source) threshold levels. New and existing sources that were not over the thresholds in 1990 but may be in later years will also be subject to the program.

33. WORKSHOP COMMENT

What is the difference between EPA accepting the District's Title V program conditionally as opposed to accepting it on an interim basis?

DISTRICT RESPONSE

If EPA approves the District program conditionally, the District will likely have to satisfy all those conditions before the program can be implemented. Interim approval would allow the program to proceed as approved with a commitment to work with EPA to incorporate any missing elements or resolve any remaining issues.

34. WORKSHOP COMMENT

If there is a conditional approval, what happens to the areas of dispute with EPA?

DISTRICT RESPONSE

The areas of dispute that caused the conditional approval must be resolved with EPA before the program can be implemented.

35. WORKSHOP COMMENT

Does the Title V program come under the requirements to conduct a socioeconomic impact analysis?

DISTRICT RESPONSE

The Title V program is strictly an administrative program mandated by federal law. It will not have a significant impact on air quality or emissions limitations. As such, a socioeconomic impact analysis is not required under state law.

36. WORKSHOP COMMENT

Can the District provide some estimate of the cost of implementing the Title V program that will be passed on to affected sources?

DISTRICT RESPONSE

As a very preliminary estimate, the District expects the permit fees for an average sized facility subject to the Title V program will be an additional \$10,000. Facilities with a large number of permits will likely be more and those with less permits will likely pay a smaller fee. Actual future fees will be affected by the exact nature of the program that EPA ultimately approves.

37. WORKSHOP COMMENT

If a source has records of its emissions can they be used to get out of the Title V program?

DISTRICT RESPONSE

The District is proposing that if a source's actual emissions have never exceeded 75% of the major source threshold level, the source will not be subject to the Title V program. A source's records could be used to document this. However, the District's proposed 75% approach to limiting potential to emit must still be approved by EPA.

38. WORKSHOP COMMENT

Can a source revise its permits now to avoid the Title V program trigger levels?

DISTRICT RESPONSE

A source could revise its permits now. However, such a move may be premature until the District can obtain concurrence from EPA on the District's proposed approach to limiting potential to emit.

39. WORKSHOP COMMENT

How far back will the District go to look at a source's actual emissions?

DISTRICT RESPONSE

In the context of developing RACT rules required by federal law for major sources, the District has received guidance from EPA to look at a source's historic emissions back to 1990. The District will use the same approach for Title V.

40. WORKSHOP COMMENT

Will the District assume that emergency generators are operating full time in determining if Title V program threshold levels have been exceeded?

DISTRICT RESPONSE

If EPA approves the District's proposed approach to limiting potential to emit, this assumption will be unnecessary if a source's total emissions have been and will remain below 75% of the Title V emission trigger levels. If actual emissions have been above 75%, then the potential emissions from emergency generators (i.e., 100% use) must be assumed unless permit conditions that limit use are made federally enforceable.

41. WORKSHOP COMMENT

Can sources with emergency equipment do something now to show low emissions and get out of the Title V program?

DISTRICT RESPONSE

Actual emissions records, if not already provided to the District in conjunction with the annual emissions inventory, will be useful in determining whether a source's actual emissions exceed 75% of the Title V trigger levels. However, it must be reiterated that EPA has not yet agreed to the 75% approach.

42. WORKSHOP COMMENT

The District does not have an agreement with EPA that the 75% test will be acceptable. However, with this understanding, sources may elect to begin gathering data and records to establish that they have never exceeded 75% of the major source threshold level.

DISTRICT RESPONSE

Yes. Sources may elect to gather such data. However, Title V permit applications will not be due until one year after EPA approval of the District's program. Since that approval will resolve the potential to emit issue, there will remain some time for sources to demonstrate that they are below the trigger levels before they are required to submit a Title V application. Sources may want to begin gathering data now that such a demonstration will be based upon.

43. WORKSHOP COMMENT

Will exempt equipment now require a permit for the Title V program?

DISTRICT RESPONSE

No. Regulation XIV provides that the emissions from exempt equipment must be included in the source's potential to emit and that exempt equipment be listed in the Title V permit application but does not require the exempt equipment to be permitted.

44. WORKSHOP COMMENT

How will any required public hearings for Title V permits be conducted?

DISTRICT RESPONSE

Proposed permit actions must be publicly noticed and available for public review and comment. Comments received will be incorporated into the permit file. However, public hearings on Title V permits are not required.

45. WORKSHOP COMMENT

How will permits for new equipment be handled for sources that already have a Title V permit? If the new equipment is not added right away to the Title V permit, does the source need a variance? Can the source operate?

DISTRICT RESPONSE

The source would need an Authority to Construct from the District before it can be constructed and a Permit to Operate from the District before it can operate. The Title V program is not

applicable until the source is ready for a Permit to Operate. Regulation XIV provides that the addition of new units that have been permitted under New Source Review can be handled as administrative amendments to the Title V permit. This means it will be issued by the District but will not be subject to EPA review and approval until the next 5-year renewal of the Title V permit.

46. WORKSHOP COMMENT

How will pieces of equipment that are "found" operating by the District without an Authority to Construct or Permit to Operate be treated under the Title V operating permit program?

DISTRICT RESPONSE

If the "found" equipment is minor, the equipment may be subject to local enforcement action. If the equipment is major, it is exposed to potential federal enforcement action. If addition of the equipment to the Title V permit represents a significant modification, then the applicable procedures described in Regulation XIV must be followed. If the unit is subject to and evaluated under New Source Review, then the unit can be added as an administrative amendment to the Title V permit.

47. WORKSHOP COMMENT

How do variances (e.g., from Rules 10(a) or 10(b)) fit into the Title V program?

DISTRICT RESPONSE

The terms and conditions of a variance will be incorporated into the terms and conditions of the local and Title V permits.

48. WORKSHOP COMMENT

Does the District have an estimate of how many staff-hours it will likely take for a business to prepare and file a Title V operating permit application?

DISTRICT RESPONSE

The labor required to prepare and submit a Title V permit application will vary from source to source and be dependent upon, among other things, the number of existing permits and the complexity of the equipment. It will also depend on whether the source is in compliance or operating under a variance, and whether any federal MACT standards for hazardous air pollutants are, or will be, applicable.

49. WORKSHOP COMMENT

If a "found" piece of equipment is a "Minor Modification" pursuant to Rule 1401(c)(26) [Minor Modification], is it in violation of Title V or just local rules and regulations?

DISTRICT RESPONSE

Operating a "found" piece of equipment required to have a Title V permit without such a permit would be a violation of federal law. However, promptly applying for a modification of a source's Title V permit to add the equipment may decrease the likelihood of an EPA enforcement action.

50. WORKSHOP COMMENT

Will sources be notified by the District prior to having to submit Title V operating permit applications? If so, when will they be notified?

DISTRICT RESPONSE

Sources will be notified by the District as soon as possible following EPA approval of the District Title V program.

51. WORKSHOP COMMENT

What guidance can the District provide regarding what EPA will require/accept with respect to record keeping requirements?

DISTRICT RESPONSE

As discussed in response to Comment No. 25, the District is uncertain what EPA's record keeping requirements will be beyond records already required under District rules and permits. These questions will hopefully be answered when EPA issues its proposed regulation on enhanced monitoring/record keeping. In addition however, EPA's Part 70 regulations, specifically Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

52. WORKSHOP COMMENT

Are the Title V reporting requirements to be submitted on a quarterly or annual basis?

DISTRICT RESPONSE

The proposed Regulation XIV requires a certification of compliance to be submitted with a Title V permit application and 5-year renewal of the permit. Submitting an annual compliance certification is also required. Supporting records will be required at that time. Records required by other District rules or permit conditions must continue to be submitted as prescribed by those rules or permit conditions, unless revised. In addition however, EPA's Part 70 regulations, specifically Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

53. WRITTEN COMMENT

The District's proposed definition of "Stationary Source" is broader than would be required by Title V. This definition does not include the "common control" requirement that EPA included in its Part 70 regulations and omits EPA's SIC code test. Instead, the District's proposed definition aggregates into a single stationary source all "related emission units" at a site. The definition of "Stationary Source" should be such that the scope of the Title V program is as narrow as possible.

DISTRICT RESPONSE

The District agrees that for purposes of the Title V program only, the Stationary Source definition should not be more encompassing than EPA requires. The District proposes to amend the definition as follows:

“Stationary Source” means an emission unit, or aggregation of emission units which are located on the same or contiguous properties and which are under common ownership or entitlement to use. ~~Related emission units on the same or contiguous property shall also be considered to be part of the stationary source regardless of the ownership or entitlement to use of the emission unit or property.~~ Stationary sources also include those emission units or aggregation of emission units located in California Coastal Waters.

54. WRITTEN COMMENT

The District should seek guidance from its legal counsel and appropriate state officials concerning the inclusion of provisions on judicial appeals in Regulation XIV.

DISTRICT RESPONSE

The District has discussed this further with its counsel. This issue must be resolved at the state level and we are awaiting an opinion from the Attorney General regarding the matter. For purposes of Regulation XIV, the requirements and limitations for judicial appeal will be deferred to state law and Rule 1425(i) will be amended to simply state:

“Judicial review of a final permit action shall be available as provided by state and federal law.”

55. WRITTEN COMMENT

Proposed Rule 1401(b)(5) provides that sources “...otherwise subject to this regulation at the time of permit application, based on their potential to emit, may propose and must accept federally enforceable permit terms and conditions that limit the stationary source’s potential to emit.” The addition of “must” language in a regulatory provision intended to provide an option for sources is confusing. Sources proposing new permit conditions in this manner will, presumably, do so because they intend to accept them. Moreover, if the District responded to an application by proposing specific permit terms that the source found unacceptable, the source would be free to reject those terms and proceed with full Title V permitting. Therefore, the use of the word “must” is technically inaccurate.

DISTRICT RESPONSE

The District will amend Rule 1401(b)(5) to delete the phrase “and must accept”. This should address the above concern. However, as (b)(5) goes on to state, such federally enforceable terms and conditions (that are agreed upon) shall be incorporated into the existing Rule 10 permits.

56. WRITTEN COMMENT

Rule 1410(p) allows a permit shield “...to preclude enforcement of enumerated requirements that are determined not to be applicable to the source, or to preclude enforcement of only those requirements that are specified as applicable in its permit to operate.” The quoted phrase, read literally, would prevent enforcement of applicable requirements. The intended meaning would be conveyed by the following: “...or to preclude enforcement of any requirements that are not specified as applicable in the permit to operate.”

DISTRICT RESPONSE

The District does not agree with the suggested alternative language since it could prevent District enforcement of rules omitted from permits. This would be a relaxation of current requirements. However, the District does agree that the language proposed in Rule 1401(p) is unclear. The District will amend the proposed language as follows:

“...to preclude enforcement of specific enumerated requirements that are determined not to be applicable to the source and which are specifically identified as such in the permit, or to preclude limit enforcement of only those requirements that are specified as applicable in its permit to operate to compliance with permit conditions for specified applicable requirements where the Air Pollution Control Officer has determined that compliance with such conditions may be deemed compliance with the underlying specified applicable requirements and the requirements are specifically identified as such in the permit.

57. WRITTEN COMMENT

Rule 1401(c)(14) [Emission Unit] defines an emission unit as an article which emits or reduces or may emit or reduce the emission of any air contaminant. Facilities may wish to install add-on control equipment for the purpose of establishing and banking emission offsets in the future. This would definitely equate to the addition of an additional emission unit. Would such a change qualify as a Section 502(b)(10) change?

DISTRICT RESPONSE

An add-on control device will not be considered a separate emission unit but rather a modification of the emission unit(s) that it is controlling the emissions from. The addition of an add-on control device to a Title V permit will be considered an administrative amendment unless it is part of a larger modification that must be considered as minor, significant or a Section 502(b)(10) change.

58. WRITTEN COMMENT

Major sources have historically provided a large wealth of information attendant to existing emission units to District engineers. Much of this same information is requested under Rule 1414(f)(3)(iii). Is it acceptable to the District to reference information already included in a facility's present unit-specific permits in a facility's permit application or will the District require a newly generated identification of emission units and associated control equipment in the permit application?

DISTRICT RESPONSE

Information already made available to or generated by the District may be included, by reference, in the permit application. However, all such information must be made available for public and EPA review and comment. Moreover, the costs to the District of assembling that information will be included in the facility's permit processing fees.

59. WRITTEN COMMENT

Rule 1414(f)(3)(viii)(C) requires facilities to include a proposed schedule of increments of progress for all applicable requirements that will become effective during the permit term (5 years). Can the District provide facilities with a listing of all requirements that will become applicable

during the permit term? It is unclear how facilities will be able to develop schedules for requirements that are not presently known.

DISTRICT RESPONSE

This provision refers to adopted rules with future effective dates and EPA MACT standards where EPA has published a future promulgation date. These rules and standards will vary among different source categories but should be known, to a reasonable extent, on the 5 year permitting cycles.

60. WRITTEN COMMENT

Rule 1414(f)(3)(ix)(B) requires a statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods. Several existing unit-specific permit conditions presently require the units and associated control equipment to be maintained in good working condition, but specific records of attendant maintenance of such equipment have not been required by the District in the past. Can the District provide insight into what they would consider as adequate maintenance records used for determining compliance with maintenance requirements and the frequency of collection and submission of such records.

DISTRICT RESPONSE

Until EPA promulgates its regulations on enhanced monitoring and record keeping (a draft is due this Fall), the District cannot say what additional records, or record submittals, may be required. In addition however, EPA's Part 70 regulations, specifically, Section 70.6 (a)(3)(iii) require that Title 5 permits specify submittal of reports of monitoring (including record keeping) at least every six months. These reports will likely be summaries of the results of required monitoring and record keeping and must be certified by a responsible official. Proposed Regulation XIV will be amended to incorporate this requirement.

61. WRITTEN COMMENT

Rule 1401(c)(11) [Commercially Reasonable Annual Capacity Factor] - Will this be applied to the entire stationary source or to each particular emission unit? How often can this factor be adjusted and how will it be applied? How will the factor be controlled?

DISTRICT RESPONSE

If EPA does not approve the District's 75% of a Title V threshold proposal for limiting potential to emit, which we believe is simpler to implement than the "commercially reasonable annual capacity factor", then the District will consider proposing the latter. For now the term "commercially reasonable annual capacity factor" will be deleted from the rule.

62. WRITTEN COMMENT

Rule 1402 through 1409 - Why are these rules reserved?

DISTRICT RESPONSE

In developing Regulation XIV, the District tried to parallel Regulation II which contains the District's current permit program rules. This effort included matching rule numbers (e.g., Rule 10/Rule 1410; Rule 25/Rule 1425). Rules 2 through 9, however, would have no parallels in Regulation XIV.

63. WRITTEN COMMENT

Rule 1410(b)(2) (5th paragraph) states, "An application for a Permit to Operate shall not be found to be incomplete solely because research and development, testing or evaluation pursuant to a temporary authorization is determined to be necessary before a permit can be issued." How will this be applied? The reference to research and development indicates that if the technology does not yet exist, the application will not be denied. How flexible will APCD be on this policy?

DISTRICT RESPONSE

The reference to research and development will apply if such analysis is needed to apply a control technology to a specific facility. This will likely have only limited applicability with regard to Title V permits unless the compliance date of an applicable requirement has passed and the facility is operating under a variance.

64. WRITTEN COMMENT

Rule 1410(c) - It appears as if the Title V permit will be a book. The idea of posting the permits near the emission equipment sounds as if it is directed more toward the current permitting system. Will parts of the "book" be required to be posted at the appropriate emissions unit or will a solution for posting be evident at some later time? Some emission units are on a flight line and excess paper in the area could be damaging to aircraft as foreign object debris.

DISTRICT RESPONSE

Only the permit applicable to a specific emission unit must be posted at that emission unit. The District will work with sources if this requirement presents specific problems for specific emission units. However, the overlaying Title V permit documents must be readily available at the facility.

65. WRITTEN COMMENT

Rule 1410(k)(2) - Can APCD make modifications to permits within 12 months? Activities will be obligated to comply with Federal law and will not have the comfort of "working agreements" as is now done with local permitting requirements.

DISTRICT RESPONSE

Rule 1410(k)(2) requires that the District act on an application for a significant modification within 12 months. A failure of the District to act is considered a "final permit action" and an applicant may obtain judicial review of that "final permit action" pursuant to proposed Rule 1425(i).

66. WRITTEN COMMENT

Rule 1411 - Will Appendix A automatically change to follow revisions of Rule 11? What about items on the "gray list" which do not need permits from APCD but are not yet included in Rule 11? How will these items be handled?

DISTRICT RESPONSE

Rule 1411 will be amended to coincide with parallel changes to Rule 11 where appropriate and to the extent that such amendments are approved by EPA as part of the Title V permit program. The "gray list" refers to new equipment types that would otherwise require permits but which the District intends to add to the Rule 11 (and Rule 1411) exemptions list.

67. WRITTEN COMMENT

Rule 1414(f)(3)(ii) - To what level of detail must alternative operating scenarios be identified by a source? If an operation requires performing non-destructive inspection on aircraft parts, would the alternate operative scenario of performing non-destructive inspection on support equipment such as aircraft slings also have to be identified? Would it suffice to say that non-destructive inspection on equipment involved in flight operations will be performed?

DISTRICT RESPONSE

The alternative operating scenarios may be as broad or as narrow as an applicant requests and is willing to document. The alternative operating scenarios must be demonstrated to be in compliance with all applicable requirements. Further, the source must be willing to keep such records as are necessary to demonstrate on-going compliance.

68. WRITTEN COMMENT

Rule 1414(f)(3)(iii)(A) - How detailed must the inventory be? Locating and tracking all lawn mowers, tow tractors, light stands and everything that runs off of fuel, in addition to all fire extinguishers, will be burdensome. Some sources will not have the resources to follow all the equipment which may come in and leave during the year.

DISTRICT RESPONSE

Emissions from mobile sources are not required to be included. The District will develop guidance on filing Title V permit applications and the necessary emissions information before applications are due. The District may allow a source to demonstrate it has provided detailed information on a minimum percentage of total emissions (e.g., 95%) to reduce the costs of trying to detail the last few percent.

69. WRITTEN COMMENT

Rule 1414(f)(3)(iv)(C) - Will AP-42 emission factors be accepted as a default?

DISTRICT RESPONSE

AP-42 emission factors are generally not suitable for demonstrating compliance for individual emission units, but will be considered on a case-by-case basis where emission source testing is not appropriate and engineering calculations, mass balances, or other estimation techniques are not reliable.

70. WRITTEN COMMENT

Rule 1414(f)(3)(viii) - Can compliance plans include such things as intended replacement of equipment?

DISTRICT RESPONSE

Yes, presuming that the replacement equipment is integral to bringing the source into compliance.

71. WRITTEN COMMENT

Rule 1414(f)(3)(ix) - Records -- copy of all? Who will receive them? Will they go directly to EPA? Who determines the format? Will this be in addition to local inventories? The time required

to compile and submit records will not be worth the result. Can the checking of records during annual APCD inspections suffice for this requirement? Does EPA realize how many records they will get from each military activity?

DISTRICT RESPONSE

Proposed Regulation XIV does not require that the records required be submitted to the District or EPA. As is now currently the case, records must be submitted on request. In addition, summary reports of the records will be required at least every six months pursuant to EPA's part 70 regulations. However, EPA may have new requirements when it promulgates its enhanced monitoring/record keeping regulations.

72. WRITTEN COMMENT

Rule 1420(d) - The Air Pollution Control Officer can cancel an application if satisfactory information is not received within 90 days. Does this mean that the R & D mentioned in Rule 1410(b)(2) can only take 90 days without consent of APCD? The language of the sections seems to conflict, particularly when most modification of equipment is performed under contract. With a federally required contracting system, accomplishment of tasks with short deadlines cannot always be guaranteed.

DISTRICT RESPONSE

Both Rule 1414(h) and Rule 1417(c) allow an applicant up to 180 days (six months) to provide additional information. The provisions of Rule 1410(b)(2) state that a Title V permit application is not incomplete solely because information from R & D is necessary before a permit can be issued. However, such R & D must be done pursuant to a temporary authorization unless otherwise exempt under Rule 1411.

73. WRITTEN COMMENT

Rule 1421(d) - Will "federally enforceable" include use of the commercially reasonable annual capacity factor?

DISTRICT RESPONSE

If EPA does not approve the District's 75% of a Title V threshold proposal for limiting potential to emit, which the District believes is simpler to implement than the "commercially reasonable annual capacity factor", then the District will consider proposing the latter. For now the term "commercially reasonable annual capacity factor" will be deleted from the rule.

74. WRITTEN COMMENT

Appendix A - What happened to the equipment list of (p) from Rule 11? Has it been purposely excluded from the Appendix?

DISTRICT RESPONSE

Section (p) of Rule 1411 was omitted in error. The parallel Section (p) of Rule 11 will be incorporated into Rule 1411.

75. EPA WRITTEN COMMENT

We regret that the time provided to EPA for review and comment on San Diego's Regulation XIV (Title V Operating Permits) was too short for us to be able to provide comments useful for your October 12 Workshop. The version of Regulation XIV which we received for review on September 24, 1993 contains a number of significant issues which make it currently unapproveable, and which require detailed thought and comment.

Just to give you some idea of the breadth of the approveability issues with this Regulation, they run from the unapproveable exemption terms to the definition of potential to emit to appeal and judicial review terms. We would like to propose that we begin to work together closely, perhaps through a series of conference calls, to discuss these issues and bring them to resolution as quickly as possible.

DISTRICT RESPONSE

The District has been participating in a statewide task force with representatives of EPA, ARB and other California air districts for the purpose of trying to reach agreement with EPA on these and other issues. That effort has been underway for more than a year. The District understands that the issue of defining a source's potential to emit is still not yet resolved with EPA, but we believe that the District's proposal to consider actual emissions that are 75% or less of a Title V emission threshold is a reasonable approach to this issue. The District understood that the issue of permit exemptions had been resolved and that proposed Regulation XIV applied this correctly. The District was unaware that there were any outstanding issues regarding appeals and judicial review. Without EPA's detailed comments on these issues, the District cannot know what, if any, revisions to the Regulation may be required. In order to adopt this Regulation as expeditiously as possible, as required by EPA, the District intends to proceed with the regulation as proposed but will also discuss these issues with EPA in an effort to resolve them as soon as possible.

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